

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JEFFREY MORABITO,

Plaintiff,

-against-

WESTCHESTER COUNTY; NEW YORK
CORRECT CARE SOLUTIONS MED
SERVICES P.C.; SERGEANT PRICE; WELL
PATH,

Defendants.

22-CV-6853 (KMK)

ORDER OF SERVICE

KENNETH M. KARAS, United States District Judge:

Plaintiff Jeffrey Morabito (“Plaintiff” or “Morabito”), who is currently in custody of the Westchester County Department of Correction, brings this pro se action under 42 U.S.C. § 1983 and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131, *et seq.*, alleging that Defendants violated his rights when they provided inadequate medical treatment of his opioid withdrawal symptoms. By order dated August 12, 2022, the Court granted Plaintiff’s request to proceed in forma pauperis (“IFP”), that is, without prepayment of fees.¹

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that summonses be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants Westchester County, Correct Care Solutions, WellPath Medical Services, and Sergeant Price through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for these Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within 90 days after the date the summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is instructed to issue summonses for Westchester County, Correct Care Solutions, WellPath Medical Services, and Sergeant Price, complete the USM-285 forms with the addresses for these defendants, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: August 30, 2022
White Plains, New York



KENNETH M. KARAS
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Westchester County
Law Department
148 Martine Avenue
White Plains, NY 10601
2. New York Correct Care Solutions
Westchester County Department of Corrections
P.O. Box. 10, Woods Road
Valhalla, NY 10595
3. WellPath Medical Care
Westchester County Department of Corrections
P.O. Box 10, Woods Road
Valhalla, NY 10595
4. Sergeant Price
Westchester County Department of Corrections
P.O. Box 10, Woods Road
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